

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

REBECCA MARIE KING, §
§
Plaintiff, §
§
VS. § CIVIL ACTION NO. SA-21-CV-245-FB
§
NORTH EAST INDEPENDENT SCHOOL §
DISTRICT and SEAN A. MAIKA, §
§
Defendants. §

ORDER ACCEPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Before the Court are the Report and Recommendation of United States Magistrate Judge filed on February 15, 2023 (docket #34); Plaintiff's Objections to the Magistrate's Report and Recommendation filed on March 7 and 8, 2023 (docket numbers 38 and 39);¹ and Defendants' Response to Plaintiff's Objections to Magistrate's Report and Recommendation filed on March 20, 2023 (docket #40).

Where no party has objected to a Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of them. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court need only review the Report and Recommendation and determine whether they are either clearly erroneous or contrary to law.

United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S. 918 (1989).

On the other hand, any Report or Recommendation to which there are objections requires de novo review by the Court. Such a review means that the Court will examine the entire record, and will

¹ Although Plaintiff's objections were filed on two different dates, it appears the Objections are the same filing.

make an independent assessment of the law. The Court need not, however, conduct a de novo review when the objections are frivolous, conclusive, or general in nature. *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1987).

In the Report, Magistrate Judge Chestney recommends to this Court that Defendants' Motion for Summary Judgment (docket #25) should be GRANTED. This recommendation is based on the finding that Plaintiff has not produced sufficient evidence from which a factfinder could infer that Defendants reassigned Plaintiff King and ultimately terminated her employment because of her race, color, or national origin, but that Defendants did satisfy their burden of production as to identifying legitimate, non-discriminatory reasons for the adverse employment actions at issue in this case. Magistrate Judge Chestney also found that Plaintiff King failed to raise a genuine issue of material fact on the question of whether these reasons were in fact pretext for discrimination. As a result, Defendants are entitled to summary judgment. Report and Recommendation, docket #34 at page 16.

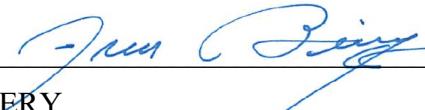
The Court has reviewed the plaintiff's objections and conducted a de novo review of those issues raised by the plaintiff. The Court finds, after careful consideration of the record and the Report and Recommendation, that the objections lack merit. *See Agoh v. Hyatt Corp.*, 992 F. Supp. 2d 722, 736–37 (S.D. Tex. 2014) (“‘Mere subjective assertions, without more, are insufficient’ to prove that the employer’s articulated reasons for his termination are pretextual. ‘Simply disputing the underlying facts of an employer’s decision is not sufficient to create an issue of pretext’; the plaintiff ‘must rebut each non-discriminatory reason articulated by the employer.’” (citations omitted)). The Court hereby accepts, approves, and adopts the Magistrate Judge's factual findings and legal conclusions contained in the Report and Recommendation (docket #34), incorporates herein the arguments and authorities presented by the Defendants in their response to Plaintiff's objections (docket #40) and finds the

recommendation should be accepted such that Defendants' Motion for Summary Judgment (docket #25) shall be GRANTED as to all of Plaintiff's claims in this case, and this case shall be DISMISSED WITH PREJUDICE.

Accordingly, IT IS HEREBY ORDERED that the Report and Recommendation of United States Magistrate Judge, filed in this case on February 15, 2023 (docket #34), is ACCEPTED such that Defendants' Motion for Summary Judgment (docket #25) is GRANTED. Because all of Plaintiff's claims fail as a matter of law, IT IS FURTHER ORDERED that this case is DISMISSED WITH PREJUDICE. Motions pending, if any, are also DISMISSED, and this case is now CLOSED.

It is so ORDERED.

SIGNED this 30th day of March, 2023.



FRED BIERY
UNITED STATES DISTRICT JUDGE